

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JANNETTE NEGRON,

Plaintiff,

-v-

TOP CLASS MANAGEMENT, INC.,

Defendants.
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21 Civ. 8457 (JPC)

ORDER


JOHN P. CRONAN, United States District Judge:

On February 27, 2023, counsel to Plaintiff Jannette Negron filed a suggestion of death upon the record noting that Ms. Negron had passed away on December 23, 2022. Dkt. 44. Under Rule 25 of the Federal Rules of Civil Procedure, if a motion to substitute the deceased party is “not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1). On the approach followed in the Second Circuit, those ninety days generally begin to run for a party once that party receives notice of the death through a suggestion of death filed pursuant to Rule 25. *See Kotler v. Jubert*, 986 F.3d 147, 153-54 (2d Cir. 2021). However, while suggestion of death filed on the docket would have been served on all parties under Rule 5 through ECF, Fed. R. Civ. P. 5(b)(2)(E), it is unclear whether non-parties with an interest in this case have also been served under Rule 4, such as Plaintiff’s potential heirs or a legal representative of her or of her estate. *See* Fed. R. Civ. P. 25(a)(3) (“A motion to substitute . . . must be served on the parties as provided in Rule 5 and on nonparties as provided in Rule 4. A statement noting death must be served in the same manner.”). Consequently, by June 16, 2023, Defendants and counsel to Plaintiff are ordered to file a joint

status letter informing the Court of whether they are aware of any individuals with an interest in this litigation, if so, whether those individuals have been served with the suggestion of death, and, if so, the date or dates on which those individuals were served.

SO ORDERED.

Dated: June 1, 2023
New York, New York



JOHN P. CRONAN
United States District Judge